

CSD 1161 [05/15/03]

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re Larry D. Urdahl, Rose L. Urdahl,

Debtor.

BANKRUPTCY NO. 07-07227-PWB7

Deutsche Bank National Trust Company, as
Trustee for WaMu Series 2007-HE1 Trust,
its assignees and/or successors, Moving Party

RS NO. KSH-1

Larry D. Urdahl, Rose L. Urdahl, Debtor(s); and
Gerald H. Davis, Chapter Trustee,

Respondent(s)

Hearing Date: February 25, 2008

Hearing Time: 10:00 A.M.

OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

☒

REAL PROPERTY

☐

PERSONAL PROPERTY

Respondent in the above-captioned matter moves this Court for an Order denying relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter ☒ 7 ☐ 11 ☐ 12 ☐ 13 was filed on 12/14/2007.
2. Procedural Status:
 - a. ☒ Name of Trustee Appointed (if any): Gerald H. Davis
 - b. ☐ Name of Attorney of Record for Trustee (if any):
 - c. ☐ *Prior Filing Information:
Debtor has previously filed a Bankruptcy Petition on: _____.
If applicable, the prior case was dismissed on: _____.
 - d. ☐ (If Chapter 13 case): Chapter 13 Plan was confirmed on _____ or a confirmation hearing is set for _____.
3. *Number of unsecured creditors 68. Amount of unsecured debt \$ 2,117,186.84.
4. *Last operating report filed: _____
5. *Disclosure statement: Filed? (yes/no) _____. Approved? (yes/no) _____.
If yes, date of plan confirmation hearing: _____

*Only required if respondent is the debtor.

Respondent alleges the following in opposition to the Motion:

1. ☒ The following real property is the subject of this Motion:
- Street address of the property including county and state:
2022 Coronado View
Alpine, CA 91901
 - Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved): SINGLE FAMILY RESIDENCE
 - Legal description of property is attached as Exhibit A.
 - **Fair market value of property: \$ 863,931.00.
 - **Nature of Respondent's interest in the property: Holder of Beneficial Interest Under First Deed of Trust.
2. ☐ The following personal property is the subject of this Motion (*describe property*):
- **Fair market value of property: \$ 0.00.
 - **Nature of Respondent's interest in the property:
3. Status of Movant's loan:
- Balance owing on date of Order for Relief: \$ 1,065,838.86
 - Amount of monthly payment: \$ 7,956.74
 - Date of last payment: 06/30/2007
 - If real property,
 - Date of default: 06/01/2007
 - Notice of Default recorded on: 10/23/2007
 - Notice of Sale published on: None
 - Foreclosure sale currently scheduled for: N/A
 - If personal property,

(1) Pre-petition default:	\$ <u>0.00</u>	No. of months:	<u>0.00</u>
(2) Post-petition default:	\$ <u>0.00</u>	No. of months:	<u>0.00</u>
4. (*If Chapter 13 Case, state the following:*)
- Date of post-petition default:
 - Amount of post-petition default: \$ 0.00
5. Encumbrances:
- Voluntary encumbrances on the property:

Lender Name	Principal Balance	Pre-Petition Arrearages Total Amount - # of Months		Post-Petition Arrearages Total Amount - # of Months	
1st: Movant	998,016.44	67,822.42	8.00	0.00	0.00
2nd:	0.00	0.00	0.00	0.00	0.00
3rd:	0.00	0.00	0.00	0.00	0.00
4th:	0.00	0.00	0.00	0.00	0.00
Totals for all Liens:	\$ 998,016.44	\$ 67,822.42		\$ 0.00	

**Separately filed Declaration required by Local Bankruptcy Rule 4001-4.

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b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens):

☐ See attached page, if necessary.

Property Tax owed to the County of San Diego, \$4,500.00.

6. Relief from the automatic stay should not be granted because:

a. ☐ Movant's interest in the property described above is adequately protected.

b. ☐ Debtor has equity in the property described above and such property is necessary to an effective reorganization.

c. ☐ The property is not "single asset real estate", as defined in 11 U.S.C. § 101(51B).

d. ☐ The property is "single asset real estate", as defined in 11 U.S.C. § 101(51B), and less than 90 days (or _____ days ordered by this court) have passed since entry of the order for relief in this case, or

(1) the Debtor/Trustee has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

(2) the Debtor/Trustee has commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien) which payments are equal to interest at a current fair market rate on the value of each creditors' interest in the property.

e. ☒ Other (specify): ☐ See attached page.

Movant's standing appears inadequate.

When required, Respondent has filed a separate Declaration pursuant to Local Bankruptcy Rules 4001-4.

Respondent attaches the following:


1. ☒ Other relevant evidence:

Declaration pursuant to Local Bankruptcy Rules 4001(a)(4); and
Request for Hearing on Motion for Relief from Automatic Stay and Notice of
Hearing [CSD 1186].

2. ☒ (Optional) Memorandum of points and authorities upon which the responding party will rely.

WHEREFORE, Respondent prays that this Court issue an Order denying relief from the automatic stay.

Dated: February 8, 2008



[Attorney for] Respondent
Richard C. Norton, Esq. (135024)

EXHIBIT A

File No. 11501643

570

EXHIBIT "A".

LEGAL DESCRIPTION

All that certain real property in the unincorporated area, County of San Diego, State of California, described as follows:

PARCEL A:

LOT 29 OF COUNTY OF SAN DIEGO TRACT 4575, ACCORDING TO MAP THEREOF NO. 12808, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, APRIL 25, 1991.

RESERVING THEREFROM AN EASEMENT AND RIGHT OF WAY FOR PRIVATE ROAD AND PUBLIC UTILITY PURPOSES AND APPURTENANCES THERETO, OVER, UNDER, ALONG AND ACROSS THAT PORTION DELINEATED AND DESIGNATED AS "PROPOSED PRIVATE ROAD AND PUBLIC UTILITY EASEMENT" ON SAID MAP.

PARCEL B:

AN EASEMENT AND RIGHT OF WAY FOR PRIVATE ROADS AND PUBLIC UTILITY PURPOSES AND APPURTENANCES THERETO, OVER, UNDER, ALONG AND ACROSS THAT PORTION OF COUNTY OF SAN DIEGO TRACT 4575, ACCORDING TO MAP THEREOF NO. 12808, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, APRIL 25, 1991, DELINEATED AND DESIGNATED AS "PROPOSED PRIVATE ROAD AND PUBLIC UTILITY EASEMENT" ON SAID MAP.

APN: 520-320-29

LEGAL DESCRIPTION